



DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2021-0009; T.D. TTB-184; Ref: Notice No. 206]

RIN: 1513-AC72

Establishment of the Gabilan Mountains Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 98,000-acre “Gabilan Mountains” viticultural area in Monterey and San Benito Counties, in California. The newly-established Gabilan Mountains viticultural area is located entirely within the existing Central Coast viticultural area and entirely encompasses the existing Mt. Harlan and Chalone viticultural areas. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202-453-1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers

and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA;
- If the proposed AVA is to be established within, or overlapping, an existing AVA, an explanation that both identifies the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition;
- If the petition proposes the establishment of a new AVA that is larger than, and encompasses, one or more existing AVAs, the evidence submitted under paragraph (a) of § 9.12 must include information addressing whether, and

to what extent, the attributes of the proposed AVA are consistent with those of the existing AVA(s);

- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Gabilan Mountains Petition

TTB received a petition from Parker Allen of Coastview Vineyards, proposing to establish the “Gabilan Mountains” AVA. The proposed AVA is located in Monterey and San Benito Counties, in California, and lies entirely within the established Central Coast AVA (27 CFR 9.75). Additionally, the proposed AVA encompasses the established Mt. Harlan (27 CFR 9.131) and Chalone (27 CFR 9.24) AVAs. Within the proposed AVA, there are 6 commercial vineyards, which cover a total of approximately 436 acres, as well as 4 wineries. The distinguishing features of the proposed Gabilan Mountains AVA are its elevation, climate, and soils.

Elevation

The proposed Gabilan Mountains AVA is located in a mountainous region with high elevations. According to the petition, the average elevation within the proposed AVA is 2,370 feet. By contrast, all surrounding regions have lower elevations. To the north of the proposed AVA, the average elevation in the Santa Clara Valley AVA (27 CFR 9.126) is 345 feet. The average elevation within the established Arroyo Seco AVA (27 CFR 9.59), located to the south of the proposed AVA, is 331 feet. To the east of the proposed AVA, the average elevation ranges from 778 feet within the established Paicenes AVA (27 CFR

9.39) to 1,105 feet within the established Cienega Valley AVA (27 CFR 9.38).

West of the proposed AVA, the average elevation ranges from 480 feet within the established Monterey AVA (27 CFR 9.98) to 512 feet within the established Santa Lucia Highlands AVA (27 CFR 9.139).

According to the petition, the proposed AVA's higher elevations place it above the heavy fog and marine layer. As a result, the proposed AVA has a cool air climate without the humidity from the fog and low-lying clouds. The petition claims that the lower humidity levels significantly reduce mildew pressure in the proposed AVA, which allows growers to use less fungicide and pursue more organic practices during the growing season.

Climate

The petition states that the climate of the proposed Gabilan Mountains AVA distinguishes it from the surrounding regions, particularly with respect to fog and rainfall. According to the petition, the proposed AVA averages fewer than 2.5 hours of fog and low clouds per day each year during the months of June through September. The regions to the west and north of the proposed AVA each average nine hours of fog and low cloud cover daily, while the region to the south averages seven hours. Paicines, which is to the east of the proposed AVA and sheltered from the marine air by the Hollister Hills, receives an average of only 2 hours of fog and low cloud cover daily. According to the petition, the low amounts of fog and lack of low clouds in the proposed AVA allow grapevines more access to direct sunlight, which assists photosynthesis of the vines for proper maturation. The lack of fog and low clouds also reduces the amount of humidity in the proposed AVA, reducing the chance of mildew developing in the vineyards.

Although the proposed AVA has less fog and low cloud cover than most of the surrounding regions, annual rainfall amounts within the proposed Gabilan Mountains AVA are higher. The proposed AVA receives an average of 17.24 inches of rain each year, with over 12 inches of that total falling during the fall and winter months. The region to the north of the proposed AVA averages 14.19 inches of rain annually, while the region to the east receives 16.06 inches. To the south of the proposed AVA, the average annual rainfall total is 12.06 inches, and the amount for the region to the west is 12.83 inches. The petition states that higher rainfall amounts during the fall and winter months act to clear the soil and send nutrients and carbohydrates to the dormant vines' roots. The petition also states that within the AVA, the drier summers reduce the risk of moisture-related diseases damaging the fruit and keep the sugars and acids in balance closer to harvest.

Soils

The petition describes the soils of the proposed Gabilan Mountains AVA as moderately coarse textured soils over a bedrock of granite. The soils are rich in calcium due to the high limestone content. The petition states that the high calcium content of the soil causes grapes to carry acid later into the growing season, allowing growers to let the grapes remain on the vines longer so that they reach physiological ripeness. The soils are primarily from the Sheridan–Cieneba–Auberry association and are well-drained to excessively drained. According to the petition, the quick-draining soils cause stress to the vines during the growing season, resulting in intense flavors and rich, hardy skins that are less frequently associated with vines grown in poorly drained soils.

By contrast, the petition states that the soils to the east and west of the proposed Gabilan Mountains AVA are medium textured soils on floodplains and

alluvial fans. The petition includes a map of the soil associations of San Benito County, which includes the region to the east of the proposed AVA. According to the map, the soils east of the proposed AVA are primarily from the San Benito-Gazos-Linne association. The petition did not include information about the soils to the north and south of the proposed AVA or a soil association map showing the specific soil associations to the west of the proposed AVA.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 206 in the **Federal Register** on November 10, 2021 (86 FR 62495), proposing to establish the Gabilan Mountains AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also included the information from the petition comparing the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 206.

In Notice No. 206, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. In addition, given the proposed Gabilan Mountains AVA's location within the Central Coast AVA, TTB solicited comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the established AVA. TTB also requested comments on whether the geographic features of the proposed AVA are so distinguishable from the established Central Coast AVA that the proposed AVA should no longer be part of the established AVA. Finally, because the proposed AVA encompasses the existing Mt. Harlan and Chalone AVAs, TTB requested

comments on whether the proposed AVA is sufficiently different from the existing AVAs, and if the features of the proposed AVA are so different that one or both of the established AVAs should not be included within it. The comment period closed January 10, 2022.

In response to Notice No. 206, TTB received two comments. Both comments support establishing the proposed AVA. Neither comment addressed the inclusion of the Mt. Harlan and Chalone AVAs within the proposed Gabilan Mountains AVA or the proposed AVA's inclusion in the Central Coast AVA.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 206, TTB finds that the evidence provided by the petitioner supports the establishment of the Gabilan Mountains AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the “Gabilan Mountains” AVA in portions of Monterey and San Benito Counties, California, effective 30 days from the publication date of this document.

TTB has also determined that the Gabilan Mountains AVA will remain part of the established Central Coast AVA. As discussed in Notice No. 206, the Gabilan Mountains AVA shares some broad characteristics with the established AVA. For example, the primary characteristic of the Central Coast AVA is its marine-influenced climate, which results in higher rainfall amounts than occur in the inland valleys on the eastern side of the Coastal Ranges. The Gabilan Mountains AVA also experiences higher annual rainfall amounts than the regions to the east of the Coastal Ranges. However, due to its higher elevations, the Gabilan Mountains AVA experiences less marine fog incursion than many of the lower elevations in the Central Coast AVA. Additionally, due to its smaller size,

the soils and elevations of the Gabilan Mountains AVA are less varied than those of the large, multi-county Central Coast AVA.

Finally, TTB has determined that the Mt. Harlan and Chalone AVAs will remain a part of the Gabilan Mountains AVA. All three AVAs are high elevation AVAs that experience less marine fog than the lower neighboring regions. Like the Gabilan Mountains AVA, the Mt. Harlan AVA contains soils of the Sheridan, Cienega, and Auberry series, and the Chalone AVA soils contain large amounts of calcium derived from limestone. However, the Mt. Harlan and Chalone AVAs also have characteristics that distinguish themselves from the Gabilan Mountains AVA and justify their continued existence as AVAs within the larger AVA. For example, both the Mt. Harlan and Chalone AVAs contain a narrower range of elevations due to their smaller size. Additionally, due to its proximity to the Hollister and Cienega Valleys that funnel storms in from the Pacific Ocean, the Mt. Harlan AVA receives more rainfall each year than the Gabilan Mountains AVA as a whole. The Chalone AVA, however, is sheltered from the Pacific storms by the Santa Lucia Mountains and receives less rainfall annually than the Gabilan Mountains AVA as a whole.

Boundary Description

See the narrative description of the boundary of the Gabilan Mountains AVA in the regulatory text published at the end of this final rule.

Maps

The petitioners provided the required maps, and they are listed below in the regulatory text. The Gabilan Mountains AVA boundary may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of the Gabilan Mountains AVA, its name, "Gabilan Mountains," will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulations clarifies this point. Consequently, wine bottlers using the name "Gabilan Mountains" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the Gabilan Mountains AVA will not affect the existing Central Coast, Mt. Harlan, or Chalone AVAs, and any bottlers using "Central Coast," "Mt. Harlan," or "Chalone" as an appellation of origin or in a brand name for wines made from grapes grown within those AVAs will not be affected by the establishment of this new AVA. The establishment of the Gabilan Mountains AVA will allow vintners to use "Gabilan Mountains" and "Central

Coast” as appellations of origin for wines made primarily from grapes grown within the Gabilan Mountains AVA if the wines meet the eligibility requirements for these appellations. Additionally, vintners may use “Gabilan Mountains” as an appellation of origin in addition to or in place of “Mt. Harlon” or “Chalone” for wines made primarily from grapes grown in the Mt. Harlon or Chalone AVAs if the wines meet the eligibility requirements for either of these appellations.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirements. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.288 to read as follows:

§ 9.288 Gabilan Mountains.

(a) *Name*. The name of the viticultural area described in this section is “Gabilan Mountains.” For purposes of part 4 of this chapter, “Gabilan Mountains” is a term of viticultural significance.

(b) *Approved maps*. The 10 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Gabilan Mountains viticultural area are titled:

- (1) Hollister, CA, 2015;
- (2) Mount Harlan, CA, 2015;
- (3) Paicines, CA, 2015;
- (4) Bickmore Canyon, CA, 2015;
- (5) North Chalone Peak, CA, 2015;
- (6) Soledad, CA, 2015;
- (7) Mount Johnson, CA, 2015;
- (8) Gonzales, CA, 2015;
- (9) Natividad, CA, 2015; and
- (10) San Juan Bautista, CA, 2015.

(c) *Boundary*. The Gabilan Mountains viticultural area is located in Monterey and San Benito Counties in California. The boundary of the Gabilan Mountains viticultural area is as described as follows:

(1) The beginning point is on the Hollister map at the intersection of the 1,520-foot elevation contour and an unnamed local road known locally as San Juan Canyon Road, southeast of the southernmost intersection of San Juan Canyon Road and Hillside Road. From the beginning point, proceed south, then

southeasterly along the meandering 1,520-foot elevation contour to its intersection with a west-east flowing tributary of Bird Creek in Azalea Canyon; then

(2) Proceed southeast in a straight line, crossing Azalea Canyon and the main channel of Bird Creek, to the intersection of the 1,520-foot elevation contour and a southeast-northwest flowing tributary of Bird Creek; then

(3) Proceed generally southeasterly along the 1,520-foot elevation contour to its intersection with the eastern fork of an unnamed stream; then

(4) Proceed southeast in a straight line, crossing onto the Mount Harlan map, to the intersection of the 1,600-ft elevation contour and the northernmost unnamed creek; then

(5) Proceed generally south, then north along the 1,600-foot elevation contour to its intersection with a north-south trending tributary of Pescadero Creek; then

(6) Proceed south in a straight line, crossing Pescadero Creek, to the 1,520-foot elevation contour; then

(7) Proceed easterly along the meandering 1,520-foot elevation contour, crossing onto the Paicines map, and continuing along the 1,520-foot elevation contour as it meanders back and forth between the Mount Harlan map and the Paicines map, crossing Thompson Creek and continuing along the 1,520-foot elevation contour to its intersection with the eastern fork of an unnamed intermittent stream on the Paicines map north of Three Troughs Canyon; then

(8) Proceed southeast in a straight line to a fork in a tributary of Stone Creek east of Three Troughs Canyon; then

(9) Proceed east-southeast in a straight line, crossing onto the Bickmore Canyon map, to the intersection of an unnamed tributary of the San Benito River and the 1,520-foot elevation contour; then

(10) Proceed southeasterly along the 1,520-foot elevation contour to a point north of the confluence of Willow Creek and the South Fork of Willow Creek; then

(11) Proceed south in a straight line to the confluence of Willow Creek and the South Fork of Willow Creek; then

(12) Proceed east in a straight line to State Route 25; then

(13) Proceed southeasterly along State Route 25 to its intersection with the boundary of Pinnacles National Park; then

(14) Proceed south, then east, then generally south along the boundary of Pinnacles National Park, crossing onto the North Chalone Peak map, to the intersection of the National Park boundary and the 1,520-foot elevation contour northeast of Mann Canyon; then

(15) Proceed westerly along the 1,520-foot elevation contour to its intersection with CA-146; then

(16) Proceed southwest in a straight line, crossing onto the Soledad map, to the fork in an unnamed intermittent creek running parallel to Fabry Road; then

(17) Proceed northwest in a straight line, crossing over Stonewall Creek, the unnamed intermittent creek and its tributaries in Bryant Canyon, and a second unnamed intermittent creek, to the intersection of the 1,480-foot elevation contour and the northern terminus of a third unnamed intermittent stream; then

(18) Proceed north in a straight line to the 1,520-foot elevation contour; then

(19) Proceed southwest, then generally northwest along the meandering 1,520-foot elevation contour, crossing over the Mount Johnson map and back and forth between the Gonzales map and the Mount Johnson map to the intersection of the 1,520-foot elevation contour and an unnamed tributary of Chular Creek southeast of Espinosa Canyon on the Gonzales map; then

(20) Proceed northwest in a straight line, crossing Chular Creek and Espinosa Canyon, to the 1,520-foot elevation contour; then

(21) Proceed generally northwesterly, then northeasterly along the 1,520-foot elevation contour, crossing over the Mount Harlan, Natividad, San Juan Bautista, and Hollister maps, returning to the beginning point on the Hollister map.

Signed: August 4, 2022.

Mary G. Ryan,
Administrator.

Approved: August 5, 2022.

Thomas C. West, Jr.,
Deputy Assistant Secretary
(Tax Policy).

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